

BEFORE THE  
SHORELINES HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF A SUBSTANTIAL  
DEVELOPMENT PERMIT ISSUED BY  
PIERCE COUNTY TO RAY A.  
WITHERRITE

WILLIAM F. SHORT,

Appellant,

v.

PIERCE COUNTY and RAY A.  
WITHERRITE,

Respondents.

SHB No. 77-12

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

This matter, the appeal of a substantial development permit issued to Ray A. Witherrite by Pierce County, came before the Shorelines Hearings Board, W. A. Gissberg, Chairman, Robert E. Beaty, Robert F. Hintz, Dave J. Mooney, Gerald D. Probst, and Chris Smith on July 1, 1977 in Tacoma, Washington. David Akana presided.

Appellant was represented by his attorney, Grant L. Anderson; respondent Witherrite was represented by his attorney, Dale L. Carlisle.

1 Respondent Pierce County did not appear.

2 Having heard the testimony, having examined the exhibits, and  
3 being fully advised, the Shorelines Hearings Board makes the following

4 FINDINGS OF FACT

5 I

6 On April 5, 1976 respondent applied for a substantial development  
7 permit to construct a 65 foot long by 18 foot wide concrete bulkhead  
8 and landfill upon tidelands fronting his residence on Dash Point in  
9 Commencement Bay. On August 24, 1976, Pierce County determined that  
10 the proposed development had an insignificant adverse effect upon the  
11 environment. After several public meetings held before the County's  
12 Shoreline Technical Advisory Committee, the project was substantially  
13 changed. The final version of the project is the construction of a  
14 protective deck with underwater sheeting, extending eight feet waterward  
15 of the existing concrete bulkhead and residence foundation. No landfill  
16 is authorized by the project description. On March 28, 1977 the County  
17 Commissioners approved the permit application for the final version  
18 subject to four conditions recommended by the advisory committee.  
19 Appellant appealed the County's decision to this Board.

20 II

21 Immediately adjacent to and east of the subject property is an  
22 existing residential home with a protective concrete bulkhead extending  
23 approximately eight feet waterward from respondent's existing bulkhead  
24 and home foundation. The proposed development would be connected to the  
25 adjacent concrete bulkhead. Immediately west of the subject property  
26 is appellant's waterfront, which except for a wooden walkway, is

27 FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

1 undeveloped. It is appellant's present intention to leave the shoreline  
2 as it now exists.

3 To the south and landward of both appellant's and respondent's  
4 property is a steep bluff rising approximately 100 feet, 80 feet of which  
5 is composed of sand. Appellant's house is located about 35 feet landward  
6 from the top of the bluff. Appellant's concern is that rapid erosion  
7 of the toe of the bluff could cause a large movement of material seaward.

### 8 III

9 The Pierce County Master Program has been adopted by the County  
10 and approved by the Department of Ecology and applies to this permit.  
11 WAC 173-19-350. The subject property lies within an Urban Shoreline  
12 Environment designation of the master program. Bulkheads are permitted  
13 within such environmental designation. Section 65.28.030(A).  
14 Section 65.28.020(F) provides that:

15 The construction of a bulkhead on shorelines where no bulk  
16 heads are adjacent shall be within five feet from the foot  
17 of any bank or landward of the MHHW mark, whichever will  
allow for the minimum seaward projection and visual impact.

18 Section 65.28.020(K) places responsibility upon the builder of a  
19 bulkhead to determine any possible adverse effects on the property  
20 of others caused by construction and to minimize such effects.

### 21 IV

22 The proposed development was not shown to be likely to cause  
23 erosion at the toe of appellant's bluff. The eight foot protective  
24 deck with underwater sheeting allows the passage of water under the  
25 deck while it scatters the force of the wave, and does not displace or  
26 bar the movement of water as would a solid concrete bulkhead.

27 FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

V

It is not always necessary to retain expert consultants when a bulkhead is sought to be constructed. In this matter, the permittee did not need to do so since the County concluded that adverse effects upon the environment would not result. It is appellant's burden to show, and he has not done so, that the County's determination was erroneous and that the proposed development would adversely affect his property.

VI

Any Conclusion of Law which should be deemed a Finding of Fact is hereby adopted as such.

From these Findings the Board comes to these

CONCLUSIONS OF LAW

I

The Board has jurisdiction over the persons and over the subject matter of this proceeding.

II

The proposed development is consistent with the Pierce County Master Program and the provisions of chapter 90.58 RCW.

The provision of the master program which mandates that bulkheads shall be constructed "within five feet from the foot of any bank or landward of the MHHW mark" is limited in application to those situations "where no bulkheads are adjacent". (See Finding of Fact III). Since there are bulkheads adjacent to respondent's property, the instant permit is not in conflict with the master program.

III

The County complied with the requirements of the State Environmental

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

1 Policy Act, chapter 43.21C RCW, and its determinations were not shown  
2 to be erroneous.

3 IV

4 The action of the County issuing the instant shoreline permit to  
5 Ray A. Witherrite should be affirmed.

6 V

7 Any Finding of Fact which should be deemed a Conclusion of Law  
8 is hereby adopted as such.

9 From these Conclusions the Shorelines Hearings Board enters this

10 ORDER


11 The action of Pierce County issuing a shoreline substantial  
12 development permit to Ray A. Witherrite is affirmed.

13 DATED this 21<sup>st</sup> day of July, 1977.


14 SHORELINES HEARINGS BOARD

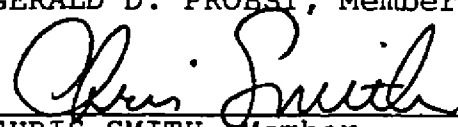
15   
16 W. A. GISSBERG, Chairman

17   
18 ROBERT E. BEATY, Member

19   
20 ROBERT F. HINTZ, Member

21   
22 DAVE J. MOONEY, Member

23   
24 GERALD D. PROBST, Member

25   
26 CHRIS SMITH, Member

26 FINAL FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW  
AND ORDER